

**FILED - KZ**

September 6, 2023 4:18 PM

U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

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**Western District of Michigan  
United States District Court  
410 W. Michigan Ave  
Kalamazoo Mi, 49001**

**1:23-cv-945**

Hala Y. Jarbou  
Chief U.S. District Judge

Plaintiff- Courtney Thomas  
430 Woodward Ave.  
Kalamazoo , MI 49007

V.

Defendants- Chief of Kalamazoo Dept. of Public Safety  
David Boysen  
Kalamazoo Dept. of Public Safety Training Dept,  
Officer 1 ( Tracy Bennett )  
Officer 2 ( Eric Zapata )

## **Complaint**

Complaint for action alleging violation of Michigan Penal Code Act 328 of 1931 Section 750.478 Failure to perform Duty. Failure to take appropriate action to the occasion of a criminal and civil offense deserving police attention, failure from one's assignment during the tour of duty, failure to comply with any rule or regulation and failure to conform to department operating policies and procedures.

Neglect is willful, through malice, ignorance or oversight, when such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare, it is gross. [ State ex rel. Hardie v. Coleman, 115 Fla. 119 ( Fla. 1934)]

### **Jurisdiction**

This court has jurisdiction over all causes of action set forth in this complaint pursuant to 28 U.S.C. section 139, as all Plaintiffs and Defendants reside and operate in this District. Furthermore, all significant and relevant incidents that gave rise to this suit took place in Kalamazoo, Mi. County of Kalamazoo within the jurisdiction of the court.

### **Cause of action**

1. Cause of action against Kalamazoo Public Safety (KPS) officers for violation of Michigan Penal Code Act 328 of 1931 Section 750.478 failure to perform duties when Officers 1 and 2 allowed Glenda George a non resident to 430 Woodward Ave of Kalamazoo Michigan 49007 to enter the home which she hasn't live in for two months. (Cawley v Warren, 7 Cir., 1954, 216 F.2d 74)
2. Cause of action against KPS officers 1 and 2 for violation of right Michigan Penal Code Act 328 of 1931 section 750.478 set in place by Michigan Law violated when KPS Officers 1 and 2 allowed Glenda George to reenter the house at 430 Woodward after she had established new residents elsewhere. (Whittington v. Johnston, 5 Cir., 1953, 201 F. 2d 810, at page 811.)
3. Cause of action against Kalamazoo Public Safety Training Division and David Boysen for improper training of KPS Officers 1 and 2 when they neglected to check Glenda George lease agreement to the address she wanted to enter, before they let

her enter 430 Woodward Ave in Kalamazoo Michigan.  
(Shemaitis v Froemke, 7 Cir.,1951, 189 F.2d 963)

4. Cause of action against KPS Officers 1 and 2 for violation of michigan penal code Act 328 of 1931 section 750.478 when Officers neglecting to listen to me ( Courtney Thomas) when I told Officers I didn't need to evict Glenda George because she left willfully when her lease was up, and she established new residents elsewhere.
5. Cause of action against KPS Officers 1 and 2 for violation of Title 18, U.S.C. section 242 when KPS Officers did knowingly deprive me (Courtney Thomas ) of rights set forth by the Constitution when KPS Officers 1 and 2 allowed nonresidents to enter my home. Screws v. United States, 325 U.S. 91, 98 ( 1945 )
6. Cause of action against KPS officer 1 for failure to intervene in knowing Officers 2 violated the plaintiff Constitution rights , violating michigan penal code act 328 of 1931 section 479c(3){b}.Kenney v. Hatfield ,132 F. Supp, 814 ( W. D. Mich. 1955)
7. Cause of action against KPS Officers 1 and 2 for violation of 18 U.S. Code section 242 Deprivation of rights under the color of law, when Officers allowed Glenda George to come in the residents where she no longer resides , against Courtney best efforts to tell the Officers she no longer resides at the residents, ( 430 Woodward Ave , Kalamazoo Mi 49007). United States v. Price, 383 U.S. 787 (1966)
8. Cause of action against Officer 2 for failure to intervene in knowing Officer 1 violated the plaintiff Constitution Rights, violating michigan Penal Code Act 328 of 1931 section

479c(3){b}. Will v. Michigan Dept. of State Police 491 U.S. 58 (1989)

### Damages

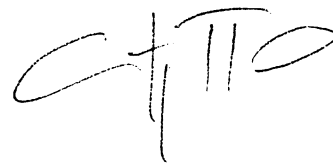
Plaintiff request relief from the named defendants in the amount of 25,000 usd for actual damages , compensatory damages money and property loss, resulting from the actions of the defendants, U.S. code 28 U.S.C. recovery of Damages , because the defendants are liable .The plaintiff request relief for emotional distress, loss of financial contribution and other damages.( Will v Michigan Dept. of state Police 491 U.S. 58 (1989)

Plaintiff request formal conference .

Plaintiff request depositions.

Plaintiff request formal settlement conference.

Plaintiff request jury trail .

A handwritten signature in black ink, appearing to be 'C. T. O.' or similar, with a stylized flourish.

Sept. 6 , 2023